

**CITY OF NEWPORT BEACH
PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE**

**THURSDAY, SEPTEMBER 5, 2013
REGULAR MEETING – 6:30 p.m.**

BRADLEY HILLGREN
Chair

LARRY TUCKER
Vice Chair

KORY KRAMER
Secretary

FRED AMERI

TIM BROWN

RAYMOND LAWLER

JAY MYERS

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

KIMBERLY BRANDT, Community Development Director

**BRENDA WISNESKI, Deputy Community
Development Director**

LEONIE MULVIHILL, Assistant City Attorney

TONY BRINE, City Traffic Engineer

MARLENE BURNS, Administrative Assistant

NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. The agendas, minutes, and staff reports are available on the City's web site at: <http://www.newportbeachca.gov> and for public inspection in the Community Development Department, Planning Division located at 100 Civic Center Drive, during normal business hours. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person. All testimony given before the Planning Commission is recorded.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

APPEAL PERIOD: Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

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I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. PUBLIC COMMENTS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

V. REQUEST FOR CONTINUANCES

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF AUGUST 22, 2013

Recommended Action: Approve and file

VII. PUBLIC HEARING ITEMS

Speakers must limit comments to three (3) minutes on all items. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

ITEM NO. 2 UPTOWN NEWPORT MSDR (PA2013-129)

Site Location: 4311-4321 Jamboree Road

Summary:

A Master Site Development Review application for the Uptown Newport mixed-use residential project which consists of 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and approximately two (2) acres of park space. The purpose of the Master Site Development Review is to ensure that the project will be developed in a cohesive manner in phases consistent with the approved Uptown Newport Planned Community Development Plan (PCDP), Development Agreement, environmental mitigation measures, and applicable City codes and standards.

CEQA Compliance:

All environmental effects of the Uptown Newport Planned Community have been previously addressed by the certification of Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) and approving Master Site Development Review No. SD2013-002.

Recommended Action:

1. Conduct public hearing; and
2. Provide direction to the applicant and/or staff regarding the adequacy of the architectural focal point provision at either end of the main entry drive at the Fairchild intersection; and
3. Adopt Resolution No. ___, finding that all environmental effects of the Uptown Newport Planned Community have been previously addressed by the certification of Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) and approving Master Site Development Review No. SD2013-002.

ITEM NO. 3 LIDO VILLAS (PA2012-146)

Site Location: 3303 and 3355 Via Lido

Summary:

The project consists of the demolition of a 3-story commercial building, a single-story church building (First Church of Christ, Scientist), and a 56-space surface parking lot to accommodate the development of 23 townhouse-style multi-family dwelling units on a 1.2 acre site. The following applications are requested in order to implement the project as proposed:

1. **General Plan Amendment**-to change the land use of a portion of the project site (3303 Via Lido) from PI (Private Institutions, 0.75) to RM (Multi-Unit Residential, 20 DU/acre).
2. **Coastal Land Use Plan Amendment**-to change the land use of a portion of the project site (3303 Via Lido) from PI-B (Private Institutions) to RM-D (Multiple-Unit Residential).
3. **Zoning Code Amendment**-to change the Zoning designations of the properties at 3303 Via Lido from PI (Private Institutions) and 3355 Via Lido from RM (Multiple-Unit Residential, 2178) and establish a Planned Community Development Plan (PCDP) Zoning District over the entire project site with development standards for a new 23-unit multi-family project. In order to establish the proposed planned community development plan, a waiver of the minimum site area of 10 acres of developed land is necessary.
4. **Site Development Review**-to allow the construction of 23 townhouse-style multi-family dwelling units.
5. **Tract Map**-to combine six underlying parcels on two existing properties and establish a 23-unit residential condominium tract on a 1.2 acre site.
6. **Mitigated Negative Declaration**-to evaluate environmental impacts relative to the California Environmental Quality Act (CEQA).

CEQA Compliance:

On the basis of the analysis provided in the Mitigated Negative Declaration (MND), City staff has concluded that the project would not have a significant impact on the environment. The MND was completed and circulated for a mandatory 30-day public-review period that began on July 12, 2013, and concluded on August 13, 2013. The public comment period was extended through August 13, 2013 to allow for comments received through OPR (the Office of Planning and Research), which began the review period on July 15, 2013.

Recommended Action:

1. Conduct public hearing; and
2. Adopt Resolution No. ____ and attached Exhibits recommending the City Council:
 - Adopt Mitigated Negative Declaration No. ND2013-001;
 - Approve General Plan Amendment No. GP2012-005;
 - Approve Local Coastal Plan Amendment No. LC2013-001;
 - Approve Code Amendment No. CA2012-008;
 - Approve Site Development Review No. SR2013-001; and
 - Approve Tract Map No. NT2013-001
(Tentative Tract Map No.17555).

ITEM NO. 4 NEWPORT HARBOR YACHT CLUB (PA2012-091)

Site Location: 720 West Bay Avenue, 800 West Bay Avenue, 711-721 West Bay Avenue, and 710-720 West Balboa Boulevard

Summary:

The proposed project consists of the demolition of the 19,234-square-foot yacht club facility and construction of a 23,163 square foot facility. In order to implement the project, a General Plan Amendment, Coastal Land Use Plan Amendment, Zoning Code Amendment, Minor Use Permit, and Planned Development Permit, would need to be approved to address the yacht club use, square footage increase, additional height, parking, and land use designations for certain properties currently being used for boat storage and parking. Should the project be approved, the Planning Commission recommendation will be forwarded to the City Council for the final review and action.

Recommended Action:

1. Remove the item from the calendar. The project will be re-noticed for a future meeting.

ITEM NO. 5 WOODY'S WHARF USE PERMIT (PA2011-055)

Site Location: 2318 Newport Boulevard

Summary:

Reconsideration of an application to amend a use permit to change the operational characteristics of an existing restaurant. The requested amendment includes: 1) the introduction of patron dancing; 2) extending the opening hour from 11:00 a.m. to 10:00 a.m. and the closing hour of the outdoor dining area from 11:00 p.m. to 2:00 a.m.; 3) amending the requirement for full-time valet parking service during restaurant operating hours; and 4) waiving up to 6 parking spaces resulting from increased occupancy created by patron dancing and the elimination of valet parking service. A variance is also requested to allow a proposed patio cover to encroach into the required bulkhead setback.

CEQA Compliance:

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities).

Recommended Action:

1. Conduct a public hearing; and
2. Adopt Resolution No. _____ approving Conditional Use Permit No. UP2011-010 and Variance No. VA2013-006, to:
 - 1) allow the proposed patio cover to encroach into the bulkhead setback;
 - 2) extend the opening hour of the restaurant and outdoor dining area to 10:00 a.m., daily, and extend the closing hour of the outdoor dining area to 2:00 a.m., daily;
 - 3) require the use of the valet parking on an as-needed basis only; and
 - 4) waiver of a portion of the required parking.

But denying the request to allow changes to the restaurant operation and use of the outdoor dining area, that include:

- 1) the introduction of patron dancing within the interior of the restaurant; and
- 2) removing tables and chairs within the outdoor dining area.

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 MOTION FOR RECONSIDERATION

ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Committee Updates:

1. Land Use Element Amendment Advisory Committee
2. General Plan/Local Coastal Program Implementation Committee

ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES

IX. ADJOURNMENT

September 5, 2013 Planning Commission Agenda Comments

Comments by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229). ~~strikeout~~ underline format is used to suggest changes to the passages quoted in *italics*

Item No. 1 Minutes of August 22, 2013

1. Page 6, paragraph 3: “Vice Chair Tucker referenced a list of permitted and prohibited uses ~~with~~ in the PC text and suggested ...”
2. Page 7:
 - a. Paragraph 3: “Ms. Nova reported on the establishment of setbacks on all ~~streets~~ facing street-facing frontages and addressed ... “
 - b. Under Item 5:
 - i. Paragraph 1, line 2: “... it is the only element within the General Plan that requires review by the State ~~the~~ Department of Housing and Community Development (HCD) ...”
 - ii. Paragraph 5, line 3: “He addressed the lack of a CEQA finding within the resolution ...”
3. Page 8, paragraph 1, line 2: “...and recused himself from hearing the aforementioned ~~time~~ item and ...”
4. Page 9:
 - a. Paragraph 1, line 4: “He presented details of the phase-one park plan which consists of a promenade for activities, ...”
 - b. Paragraph 2, line 5: “Mr. Nilmeier addressed the use ~~of~~ enhanced materials, the architectural elements for façades, and ...”
5. Page 10:
 - a. Paragraph 4: “Vice Chair Tucker reiterated ~~that the~~ need to make the building look less “institutional.”
 - b. Paragraph 6, line 5: “... and Mr. Shopoff’s assertion that he would be working with ~~them~~ the Newport Mesa School Board regarding the matter, ...”
 - c. Paragraph 11, final line: “... with changes as recommended ~~by~~ per discussion above.”
6. Page 12, last line: “The agenda for the Regular Meeting was posted on August 16, 2013, at 3:00 p.m., in the binder and on the City Hall Electronic Bulletin Board located in the entrance of the Council Chambers at 100 Civic Center Drive.”

Item No. 2 Uptown Newport MSDR (PA2013-129)

1. I submitted [written comments](#) on this item in connection with the original hearing on August 22. Some of them remain valid:
 - a. I continue to think that the Commission should be aware of the changes to the parcel map made at a Zoning Administrator hearing on [June 27](#), which will be ratified by this approval. Those changes, from 2 lots to 4, seem inconsistent with the previously-approved Phasing Plan.
 - b. The City's "Current Projects & Issues" page informing the public about the status of the [Uptown Newport Project](#) continues to fail to mention the most public meetings regarding the project, including the present one.

Item No. 3 Lido Villas (PA2012-146)

1. I submitted preliminary [written comments](#) on this item in connection with the original hearing on August 22.
2. I have still not had time to carefully read the [Mitigated Negative Declaration](#), but continue to think the draft Resolution of Approval presents a garbled version of the period during which it was officially circulated for public review, with the end date being variously stated as August 12, 13 or 14. My understanding is the public is still free to comment upon and question the propriety of the *Mitigated Negative Declaration* up to and including the City Council hearing at which it is proposed to be adopted (tentatively [scheduled](#) for November 12, 2013, although staff has no obligation to respond to comments received after the close of the original public review period, whenever that was).
3. Regarding the **draft Resolution of Approval** starting on handwritten page 13 of the printed staff report for the September 5 meeting:
 - a. Section 1.1:
 - i. Line 3: "... as shown on **the** map recorded in Book 28, ..."
 - ii. Second line from end: "... a General Plan amendment (**GPA**), Coastal Land Use Plan (**CLUP**) amendment, ..." [abbreviations used on next page, otherwise not defined]
 - b. Section 1.10: Are "(PI, 0.75 FAR)" and "(RM, 2178)" really "Zoning designations"? The Resolution previously says the Zoning is "PI" and "RM." The significance of the "2178" is not explained, but is apparently "Site Area [minimum square feet?] per Dwelling Unit" (= 20 dwelling units per acre?)
 - c. Section 1.11: The event on August 22 was a **presentation**, *not* a **public hearing** since the public was neither invited nor allowed to speak. This section should probably say the hearing was continued to September 5.
 - d. Section 2.2: see previous written comments. The public was told the comment period ended at 5:00 pm on August 12.
 - e. Section 3.6: I find the arguments for waiving the 10 acre minimum requirement for supplanting the Zoning Code with a PC Zoning District unpersuasive. I fail to see why 1.2 acres at this location is similar to 10 acres in other areas where PC texts are in effect. What other examples of similarly small PC Zoning Districts are there in the City?

f. Section 4.2: As noted below, Exhibit “E” no longer includes the PC text, even though the approval says it does.

g. **Site Development Review:**

- i. B-5: “Mechanical equipment for the residential units ~~have~~ has been located within enclosures at the roof deck level ...”
- ii. B-6: I fail to see how the 6-foot block wall is consistent with the Lido Village Design Guidelines vision of pedestrian openness and connectivity.
- iii. B-11 : “... and 12 residential guest parking spaces, which ~~can be~~ are provided entirely on-site.”
- iv. C-2: “... to accommodate and provide safe access for emergency vehicles, delivery trucks, and refuse ~~collections~~ collection vehicles, as determined by the City Traffic Engineer.”

h. **Tentative Tract Map:**

- i. I-1: “The applicant will be responsible for the payment of appropriate fair share, housing in-lieu, and park fees for the development of these new dwelling units as conditions of approval.”
 - ii. J-2: Abbreviation “SWPPP” is not explained.
- i. Exhibit “E” -- Zoning Map Amendment And **Lido Villas Planned Community Text** :
- i. The former draft Resolution had a copy of the PC text at this point; this one does not.

j. Exhibit “F” -- **Conditions of Approval** :

- i. Condition 6: Does this mean the applicant might be eligible for a cash credit for the reduction in commercial area?
- ii. Condition 9: “... in substantial conformance with the approved Tentative Tract Map No. ~~174555~~ 17555 dated May 16, 2013.” [? the map number is given differently in different places]
- iii. Condition 11: “A total of 46 enclosed garage parking spaces and 12 ground level guest parking spaces shall be provided within ~~the~~ as illustrated on the approved plans.” [? possibly a word is missing]
- iv. I have not had time to read the remainder of the conditions.

k. Attachment No. PC 2 Revised Draft Planned Community Development Plan :

- i. 1.0: “The Lido Villas Planned Community Development Plan (~~P~~ PCDP) is composed of 23 single family residential townhomes, totaling 63,592 square feet. It is located on the site across from the ~~current~~ former City Hall building and bounded by ...” Also, where is “the City’s Lido Village Concept Plan” available for inspection?
- ii. 2.8. (Landscaping/Irrigation) : This seems partially redundant with 3.1.i (Irrigation Guidelines).
- iii. 2.8. (Fences and Walls) : Again, why the requirement for a 6-foot wall in a pedestrian friendly community? And why are there two sections labeled “8”?
- iv. 2.9 and 2.11: Is it supposed to be “electrical engineer” or “lighting engineer”?

- v. 2.10: Why is there is no section 2.10?
- vi. 2.15: Does this mean temporary structures and uses will *always* be allowed in this PC with no restrictions, and how does this mesh with the new *Prohibited Uses* language in 3.1?
- vii. 3.1.3.b (Floor Area per Unit): Is this *gross* floor area?
- viii. 3.1.3.d (Exceptions to Building Height): "*Deck railings may exceed the building height limit ~~and but~~ shall not exceed 35 feet 4 inches in height, ...*"
- ix. 3.1.3.g : "...shall be provided for the community (at a rate of 75 sq. ft. per dwelling unit) with ..."
- x. 3.1.3.h : I don't believe the tree species proposed match those allowed by the current *Official Tree List*, as required by the NBMC.
- xi. 3.1.3.h : Line 3 from end: "*Plant selection shall be harmonious ~~to~~ with the character of the project and surrounding projects ...*"
- xii. 3.1.3.j : "...shall be designed and maintained in a manner which ~~minimized~~ minimizes impacts on ..."
- xiii. 3.1.3.k : I don't believe the City currently has a person called "*Director of Planning*."